IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13431 of 1999

Between:

The Executive Director, Medak District,
Medak Dist. Sheduled Castes, Service Co-operative Society Ltd.,
Sangareddy,

..... PETITIONER

AND

1 The Presiding Officer,
Labour Court-II, Hyderabad.
2 Syed Ashwaq, S/o Ibrahim,
R/o 130/C, Railway Quarters, Moulali, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to the award dt.18.2.99 in I.D.No.51/96 passed by the 1st respondent is as bad illegal and contrary to section11 (A) of the I.D.No.1947 and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case and in the interest of Justice.

Counsel for the Petitioner:MR.M.V.S.SURESH KUMAR

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. G.Ravi Mohan

The Court made the following :

ORDER:

This writ petition is filed by the management of the Medak District Scheduled Caste Service Co-operative Society Limited at Sangareddy, being aggrieved by the award passed by the Labour Court-II, Hyderabad in I.D.No.51 of 1996, dated 18-2-1999, wherein the petition filed by the respondent No.2 under Section 2-A (2) of the I.D.Act, 1947 (for brevity "the Act"), was answered in his favour granting relief of reinstatement into service with continuity of service but without any back wages.

It is the case of the petitioner-management that the respondent No.2 filed a petition under Section 2 (A) (2) of the Act, before the Labour Court-II, Hyderabad, complaining that he was appointed on 10-11-1993 and his services were terminated with effect from 07-10-1995, without following the procedure, as required under Section 25 (F) of the Act, and without paying any compensation therefor.

Before the Labour Court, the management had filed a counter denying the allegations made by the workman. Further, it was asserted that the workman was appointed as an Electrician with effect from
01-01-1994, purely on temporary basis and he was paid consolidated pay of Rs.2,000/- per month. Further, the workman was engaged as per the exigency of work. The name of the 2nd respondent-workman was not sponsored from the employment exchange and his appointment made in the society was only for the purpose of repairing the electrical motors sanctioned to the Scheduled Caste beneficiaries. Therefore, no right is conferred on him for regularization of his services. The 2nd respondent-workman services were terminated with effect from 7-10-1995, since, there was no work in the society, therefore, there is no violation of the provision of Section 25 (F) of the Act, in terminating the service of the petitioner.

Heard the learned Standing counsel for the petitioner as well as the learned counsel

for the 2nd respondent.

Before the Labour Court, the 2nd respondent-workman examined himself as W.W.1 and marked documents Exs.W.1 to W.4 on his behalf. On behalf of the management, M.W.1 was examined, but no documents were marked. The Labour Court, after detailed consideration of both oral and documentary evidence, came to the conclusion that the termination of the workman from service was in violation of the provisions of Section 25 (F) of the Act, and therefore, the workman is entitled to reinstatement into service, but without any back wages.

At the outset, I am of the opinion that the Labour Court has not committed any error warranting interference of this Court under Article 226 of the Constitution of India.

The only controversy so far as the facts were concerned is whether the workman was engaged with effect from 01-01-1994 or with effect from 10-11-1993. In this regard, the petitioner got issued legal notice, according to it, the 2nd respondent-workman was appointed as an electrician with effect from 10-11-1993 and he continuously worked up to 7-10-1995. There is no dispute as to the working of the workman continuously and it was not pleaded that the workman did not put in 240 days service preceding the date of termination. Therefore, the workman was appointed with effect from 01-01-1994 or 16-11-1993 makes no difference for the reason even assuming that the workman was appointed on 01-01-1994 since he worked continuously up to 7-10-1995 it must be deemed that the workman had put in 240 days of continuous service with the petitioner with effect from 07-10-1995. The workman was thus, terminated without following the provisions of Section 25 (F) of the Act., i.e., one month's notice or one month's pay, in lieu of notice and compensation.

Admittedly, in this case, no such procedure was adopted by the petitioner-management. Therefore, the Labour Court-II rightly came to the conclusion that the 2nd respondent-workman was terminated from the service of the petitioner-management in violation of the provisions of Section 25 (F) of the Act. Hence, it found that the termination order is illegal and as such the impugned order was set aside by the Labour

Court-II, and the petitioner-management was directed to reinstate the respondent

No.2-workman with continuity of service but without back wages. In fact, the respondent No.2 should have filed a writ petition being aggrieved by the award passed by the Labour Court-II for not granting the back wages. I am of the considered opinion that the award passed by the Labour Court is just and proper and does not call for any interference of this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

_____

19th July, 2005.

mrb

To

1. The Presiding Officer,
   Labour Court-II, Hyderabad.

2. Two CCs to GP for Labour, High Court Buildings, Hyderbad(OUT)
3. Two CD copies

4. 1 CC to MR.G.RAVI MOHAN